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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,050	10/12/2001	David Ellis	S85.12-0001	1800
27367	7590	11/22/2005	EXAMINER	
WESTMAN CHAMPLIN & KELLY, P.A. SUITE 1400 - INTERNATIONAL CENTRE 900 SECOND AVENUE SOUTH MINNEAPOLIS, MN 55402-3319			COLON, CATHERINE M	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/977,050		ELLIS ET AL.	
	Examiner		Art Unit	
	C. Michelle Colon		3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/25/03, 3/27/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a Non-Final Office Action in response to the communication received on October 12, 2001. Claims 1-18 are now pending in this application.

Information Disclosure Statement

2. The examiner has reviewed the patents supplied in the Information Disclosure Statements (IDS) provided on February 25, 2003 and March 27, 2003.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Higgins et al. (U.S. 6,397,202).

As per claim 1, Higgins et al. discloses risk management software embodied upon a computer-readable medium, the software comprising a set of instructions for the following steps to be performed when the software is executed:

a) accessing project data consisting of a plurality of actions to be performed (col. 3, lines 30-35; col. 6, lines 9-17; Inputs represent the estimated project requirements or actions to be performed.);

b) analyzing the project data to identify a plurality of activities to at least some of which is assigned at least one risk indicator (col. 5, lines 45-47; col. 6, lines 22-27; Each input, or project requirement, is assigned a risk level based on a comparison of estimated versus actual status at a given point in time.);

c) on the basis of one or more mitigating tasks identified to reduce or prevent a risk or the consequences of a risk, outputting to the project data one or more new actions or alterations to existing actions in the project data (col. 5, lines 59-62; col. 6, lines 4-5; col. 6, line 63-col. 7, line 1; Based on identified risk levels, project managers are alerted so that action is taken to mitigate the risk.); and

d) accessing changes to the project data and revising the plurality of activities in dependence on whether the changes are to actions in the project data resulting from step c) above (col. 4, lines 11-14 and 63-67; Inputs, or project requirement data, may be changed automatically or by direction of the project manager.).

As per claim 2, Higgins et al. discloses risk management software as claimed in claim 1, wherein the changes to the project data are compared with new actions or alterations to existing actions previously output to the project data and where the changes to project data relate to actions previously output to the project data no revisions are made to the plurality of activities (col. 5, lines 31-40 and 59-65; Figures 2

and 3; The system provides an interface for project managers to monitor the progress of a project as project data is changed and risk levels change.).

As per claim 3, Higgins et al. discloses risk management software as claimed in claim 1, comprising the step of receiving a trigger from the project data when the project data has been changed (col. 6, lines 61-67; A project manager is sent an alert when project data is not at the status it should be, and thus, has changed (i.e., from a comparison of estimated versus actual status of project requirements)).

As per claim 4, Higgins et al. discloses risk management software as claimed in claim 1, comprising the step of periodically polling the project data to determine whether changes have been made to the project data (col. 4, lines 63-65; col. 5, lines 31-33; Figures 2 and 3; The project data to be evaluated for changes and changes in risk may be manually selected by a project manager or automatically selected by the system at periodic intervals.).

As per claim 5, Higgins et al. discloses risk management software as claimed in claim 1, comprising the further step of automatically outputting a message to one or more predetermined recipients (col. 6, lines 61-67; A project manager is sent an alert when project data is not at the status it should be, and thus, has changed (i.e., from a comparison of estimated versus actual status of project requirements)).

As per claim 6, Higgins et al. discloses risk management software as claimed in claim 5, comprising the further step of automatically outputting a message to one or more predetermined recipients when the consequences of a risk are identified as exceeding a selected threshold (col. 6, lines 61-67; A project manager is sent an alert

when project data is not at the status it should be, and thus, has exceeded a predetermined risk threshold.).

As per claim 7, Higgins et al. discloses risk management software as claimed in claim 5, wherein the message is automatically output when the processor receives notice of an impacted risk (col. 6, lines 61-67; A project manager is sent an alert when project data is not at the status it should be, and thus, has impacted the risk level of the project.).

As per claim 8, Higgins et al. discloses risk management software as claimed in claim 1, wherein the risk indicator consists of one or more of a cost allowance and a time allowance (col. 6, lines 19-52; Risk levels are computed by comparing estimated versus actual project status of requirements. A risk level is elevated when the actual cost or time allowance has exceeded the estimated allowance.).

Claims 9-18 recite substantially similar subject matter to claims 1-8 above. Therefore, claims 9-18 are rejected on the same basis as claims 1-8 above.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Schultz et al. (U.S. 6,718,342) discusses a method and apparatus for network-enabled risk assessment;

- Shannon (U.S. 6,088,678) discusses a system and method for assessing schedule, cost and risk for a project; and
- Ledet et al. (U.S. 6,237,915) discusses game for teaching project management skills including mitigating project risk.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Colon whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 571-272-6729.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

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Art Unit: 3623

or faxed to:

703-872-9306 [Official Communications; including After Final
communications labeled "Box AF"]

571-273-6727 [For status inquiries, draft communication, labeled
"Proposed" or "Draft"]

Hand delivered responses should be brought to:

United States Patent and Trademark Office

Customer Service Window

Randolph Building

401 Dulany Street

Alexandria, VA 22314



C. Michelle Colón
Patent Examiner
Art Unit 3623

November 14, 2005